

IN THE CIRCUIT COURT OF LOWNDES COUNTY, MISSISSIPPI

NOVEMBER TERM, 1980

STATE OF MISSISSIPPI

VERSUS

NO. 6716

MACK ARTHUR KING

DEFENDANT

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INSTRUCTION D-8

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The Court instructs the jury that, if they have a reasonable doubt of the guilt or innocence of the accused from all the evidence or from the want of evidence, they should acquit, and the Defendant is entitled to the verdict of twelve (12) men, each of whom, on the whole evidence, must be free from and reasonable doubt in his own mind, and he should be allowed to have his own conception of what a reasonable doubt is to him; and unless the jury believes from the evidence beyond a reasonable doubt and a moral certainty that the Defendant is guilty, they should promptly acquit.

*Refused  
H012*

**REFUSED  
FILED**

DEC 5 1980

*J.E. Wiggins*  
Circuit Clerk

DEC 5 - 1980

*J.E. Wiggins*  
Circuit Clerk

IN THE CIRCUIT COURT OF LOWNDES COUNTY, MISSISSIPPI

NOVEMBER TERM, 1980

STATE OF MISSISSIPPI

VERSUS

NO. 6716

MACK ARTHUR KING

DEFENDANT

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INSTRUCTION D-10

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The Court instructs the jury that the State of Mississippi must prove that the decedent met her death beyond a reasonable doubt and to the exclusion of every reasonable hypothesis consistent with innocence.

*Refused  
Hobbs*

REFUSED  
FILED

DEC 5 1980

*J.E. Wiggins*  
Circuit Clerk

DEC 5 - 1980

*J.E. Wiggins*  
Circuit Clerk

IN THE CIRCUIT COURT OF LOWNDES COUNTY, MISSISSIPPI

NOVEMBER TERM, 1980

STATE OF MISSISSIPPI

VERSUS

NO. <sup>6716</sup>~~6718~~

MACK ARTHUR KING

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INSTRUCTION D-12

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The Court instructs the jury that, where there are two reasonable hypotheses arising out of and supported by the evidence, it is the duty of the jury to adopt the hypothesis consistent with innocence, even though the hypothesis of guilt be the more probable.

*Refused  
11/8/80*

DEC 5 - 1980

*J.E. Wiggins*  
Circuit Clerk

REFUSED  
FILED

DEC 5 1980

*J.E. Wiggins*  
Circuit Clerk

IN THE CIRCUIT COURT OF LOWNDES COUNTY, MISSISSIPPI

NOVEMBER TERM, 1980

STATE OF MISSISSIPPI

VERSUS

NO. 6716

MACK ARTHUR KING

DEFENDANT

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INSTRUCTION D-6

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The Court instructs the jury that if you find the Defendant not guilty in this case, then the form of your verdict will be:

"We the jury, find the Defendant NOT GUILTY."

You will write your verdict on a separate sheet of paper.

*Withdrew  
HBB*

FILED

DEC 5 1980

*J. E. Wiggins*  
Circuit Clerk

FILED  
DEC 7 1980

*J. E. Wiggins*  
Circuit Clerk

IN THE CIRCUIT COURT OF LOWNDES COUNTY, MISSISSIPPI

IN VACATION, 1980

STATE OF MISSISSIPPI

VERSUS

NO. 6716

MACK ARTHUR KING

DEFENDANT

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INSTRUCTION D-9

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The Court instructs the jury that the evidence in this case where circumstantial requires that the State of Mississippi prove said case beyond a reasonable doubt and to a moral certainty.

*Withdrew  
Jury  
K&J*

FILED

DEC 5 1980

*J. E. Wiggins*  
Circuit Clerk

DEC 5 - 1980

*J. E. Wiggins*  
Circuit Clerk

IN THE CIRCUIT COURT OF LOWNDES COUNTY, MISSISSIPPI

NOVEMBER TERM, 1980

STATE OF MISSISSIPPI

VERSUS

NO. 6716

MACK ARTHUR KING

DEFENDANT

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INSTRUCTION D-11

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The Court instructs the jury that the form of your verdict may be as follows:

"We, the jury, find the Defendant guilty of Capital Murder."

OR

"We, the jury find the Defendant not guilty of Capital Murder."

OR

"We, the jury, find the Defendant guilty of Burglary."

The Court further instructs the jury that you should write you verdict on a separate sheet of paper to be supplied to you by the Clerk and that you should not write on any of the Court's instructions.

*withdrew  
HBB*

FILED

DEC 5 1980

*J. E. Wiggins*  
Circuit Clerk

DEC 5 - 1980

*J. E. Wiggins*  
Circuit Clerk

"We, the Jury, find the Defendant guilty of Capital Murder."

F I L E D

DEC 5 1980

T. E. Wiggins

Circuit Clerk

"We, the jury, unanimously find that the aggravating circumstances

1) The Capital Murder was committed while the Defendant was engaged in the commission of the crime of burglary or in an attempt to commit a burglary.

2) The Defendant committed the capital murder in an especially heinous, atrocious and cruel manner.

are sufficient to impose the death penalty and there are insufficient mitigating circumstances to outweigh the aggravating circumstances.

/s/ Mary Elizabeth Gordon

F I L E D

DEC 5 1980

T. E. Wiggins

Circuit Clerk



25-41  
IN THE CIRCUIT COURT OF LOWNDES COUNTY, MISSISSIPPI  
NOVEMBER TERM, 1980

STATE OF MISSISSIPPI

VS.

NO. 6716

MACK ARTHUR KING

ORDER

THIS DAY CAME THE DEFENDANT, MACK ARTHUR KING, IN OPEN COURT, HAVING BEEN PREVIOUSLY ARRAIGNED ON AN INDICTMENT CHARGING HIM WITH THE CRIME OF CAPITAL MURDER, TO WHICH HE ENTERED A PLEA OF NOT GUILTY, WHEREUPON CAME A JURY OF GOOD AND LAWFUL PERSONS, COMPOSED OF JAN RUSSELL MILLER AND ELEVEN OTHERS, WHO WERE EACH ACCEPTED BY BOTH SIDES, AND AFTER HEARING THE EVIDENCE PRO ET CON, THE ARGUMENT OF COUNSEL AND RECEIVING THE COURT'S INSTRUCTIONS, RETIRED TO CONSIDER THE VERDICT AND PRESENTLY RETURNED IN OPEN COURT THE FOLLOWING VERDICT, TO-WIT:

"WE, THE JURY, FIND THE DEFENDANT GUILTY OF CAPITAL MURDER."

WHEREUPON, PURSUANT TO THE CRIMINAL RULES OF THE CIRCUIT COURTS OF THE STATE OF MISSISSIPPI, THE JURY HEARD EVIDENCE IN AGGRAVATION BROUGHT BY THE STATE, AND EVIDENCE IN MITIGATION BROUGHT BY THE DEFENDANT, MACK ARTHUR KING, ARGUMENT OF COUNSEL, AND AFTER RECEIVING INSTRUCTIONS OF THE COURT, RETIRED TO CONSIDER THE SENTENCE TO BE IMPOSED ON THE DEFENDANT, MACK ARTHUR KING, AND PRESENTLY RETURNED THE FOLLOWING VERDICT, TO-WIT:

"WE, THE JURY, UNANIMOUSLY FIND THAT THE AGGRAVATING CIRCUMSTANCES

1) THE CAPITAL MURDER WAS COMMITTED WHILE

THE DEFENDANT WAS ENGAGED IN THE COMMISSION  
OF THE CRIME OF BURGLARY OR IN AN ATTEMPT  
TO COMMIT A BURGLARY.

2) THE DEFENDANT COMMITTED THE CAPITAL  
MURDER IN AN ESPECIALLY HEINOUS, ATROCIOUS  
AND CRUEL MANNER.

ARE SUFFICIENT TO IMPOSE THE DEATH PENALTY AND  
THERE ARE INSUFFICIENT MITIGATING CIRCUMSTANCES TO OUTWEIGH  
THE AGGRAVATING CIRCUMSTANCES.

S/ MARY ELIZABETH GORDON

IT IS THEREFORE ORDERED AND ADJUDGED THAT THE  
DEFENDANT, MACK ARTHUR KING, BE AND HE HEREBY IS SURRENDERED  
TO THE CUSTODY OF THE SHERIFF OF LOWNDES COUNTY, MISSISSIPPI,  
FOR IMMEDIATE TRANSPORTATION TO THE MAXIMUM SECURITY UNIT  
OF THE MISSISSIPPI DEPARTMENT OF CORRECTIONS AT PARCHMAN,  
MISSISSIPPI.

IT IS FURTHER ORDERED AND ADJUDGED THAT THE  
DEFENDANT BE AND HE HEREBY IS SENTENCED TO DEATH BY LETHAL  
GAS ON JANUARY 15, 1981.

So ORDERED AND ADJUDGED THIS THE 5TH DAY OF  
DECEMBER, A. D., 1980.

*Harvey Buck*  
CIRCUIT JUDGE

DEC 5 - 1980

*J.E. Williams*  
Clerk

IN THE CIRCUIT COURT OF LOWNDES COUNTY, MISSISSIPPI

NOVEMBER TERM, 1980

STATE OF MISSISSIPPI

VERSUS

NO. 6716

MACK ARTHUR KING

DEFENDANT

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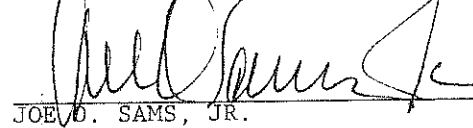
MOTION FOR NEW TRIAL

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Comes now the Defendant and moves the Court to set aside the verdict and judgment of the Court for the following reasons:

1. The verdict is not supported by the evidence.
2. The verdict is contrary to the overwhelming weight of the evidence.
3. The Court erred in refusing to grant each and every Motion made by the Defendant.
4. The Court erred in granting each and every instruction given to the State.
5. The Court erred in refusing every instruction refused the Defendant.
6. The Court erred in overruling each and every objection made by the Defendant.
7. The Court erred in sustaining each and every objection made by the State.

RESPECTFULLY SUBMITTED,



JOE D. SAMS, JR.  
Attorney for Defendant

DEC 5 - 1980

J.E. Wingfield  
Clerk of Court

IN THE CIRCUIT COURT OF LOWNDES COUNTY, MISSISSIPPI

NOVEMBER TERM, 1980

STATE OF MISSISSIPPI

VERSUS

NO. 6716

MACK ARTHUR KING

DEFENDANT

---

ORDER

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This cause came on for hearing on Motion for New Trial.

The Court finds said Motion not well taken.

IT IS THEREFORE ORDERED that the Motion for New Trial  
is denied.

Ordered, this the 5th day of December, 1980.

*Harvey Beck*  
CIRCUIT JUDGE

3/5/17  
DEC 5 - 1980

*J.E. Wiggins*  
Circuit Clerk

IN THE CIRCUIT COURT OF LOWNDES COUNTY, MISSISSIPPI

IN VACATION 1980

STATE OF MISSISSIPPI

VERSUS

NO. 6716

MACK ARTHUR KING

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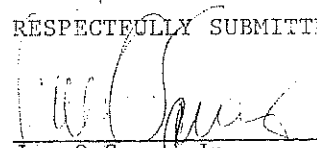
MOTION

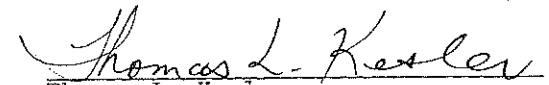
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Comes now the Defendant by and through counsel and moves the Court to allow attorneys for the Defendant a reasonable amount of time in which to file a Special Bill of Exceptions with reference of the above styled and numbered cause, the same being requested under §99-17-41 Mississippi Code Annotated 1972.

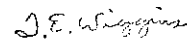
WHEREFORE, PREMISES CONSIDERED, the Defendant asks that a reasonable amount of time be allowed in which to file the said Special Bill of Exceptions.

RESPECTFULLY SUBMITTED,

  
Joe O Sams, Jr.,  
Attorney for Defendant

  
Thomas L. Kesler,  
Attorney for Defendant

DEC 15 1980

  
J.E. Wiggins  
Circuit Clerk

IN THE CIRCUIT COURT OF LOWNDES COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

VS.

NO. 6716

**FILED**  
JAN 12 1981Mack Arther King*J.E. Wiggins*  
Circuit ClerkAFFIDAVIT

Personally appeared before me, the undersigned authority in and for the County of Lowndes, State of Mississippi, Mack Arther King, who, having been by me duly sworn, on his oath states:

1. That he was convicted in the Circuit Court of Lowndes County, Mississippi, at the November term, 1980, thereof, on December 5, 1980 on a charge of Capital Murder

2. Affiant states that he is unable to prepay all costs in the Circuit Court and is unable to deposit a sum of money to cover costs of the Supreme Court Clerk as required by Section 25-7-3 of the Mississippi Code of 1972 as amended, due to his poverty and indigency. That he desires to prosecute an appeal to the Supreme Court of the State of Mississippi, of said conviction, and affiant prays that this affidavit be accepted in lieu of prepayment as provided for in section 99-35-105 of the Mississippi Code of 1972 as amended. Affiant states that he desires said appeal with stay of judgment.

*Robert W. Sain*  
WITNESS*Mack Arther King*  
DEFENDANT*Johnny R. Anderson*  
WITNESS

SWORN TO AND SUBSCRIBED BEFORE ME, on this the 7<sup>th</sup> day of January, A.D., 1981.

My commission expires:

*Adrian E. Schuyler*  
NOTARY PUBLIC

The Commission Expires 1-1-1983

Circuit Clerk's Certificate of Appeal in Criminal Case.  
See Sec. 99-35-121 Code 1972 as Ammended

THE STATE OF MISSISSIPPI,

VS.

NO. 6716

Mack Arther King

In Circuit Court Lowndes County

I, T. E. Wiggins, the Clerk of said Court, do hereby certify that at a term of said Court, beginning on the 10th day of November, 1980, and adjouring on the 6th day of December, 1980, the Defendant Mack Arther King was convicted of capital murder and on the 5th day of December 1980, was sentenced to death by lethal gas on January 15, 1981

~~and that said defendant has executed an indigent affidavit that he is unable to prepay the costs.~~

~~And that said Defendant has paid all taxes and court costs~~

and he has taken an appeal to the Supreme Court of the State giving None

as sureties on No Appearance or Bail Bond.

Done this the 12th day of January, 1981,  
as witness my hand and official seal.

T. E. Wiggins Circuit Clerk

By Norothy McWilliams Deputy Clerk.

JOE O. SAMS, JR.

ATTORNEY AT LAW

January

Twenty-First

1 9 8 1

Mrs. Kathleen Burnett, Court Reporter  
Rt. 7, Box 139  
Columbus, MS 39701

Re: Mack Athur King  
State Versus  
Capital Murder

Dear Mrs. Burnett:

This is to give you notice to transcribe all of your notes  
taken in the trial in the above cause.

An appeal has been perfected by filing a Petition to Appeal  
in forma pauperis.

Very truly yours,

/s/ Joe O. Sams Jr.

Joe O. Sams, Jr.

mbc

cc: John M. Montgomery, District Attorney  
T. E. Wiggins, Circuit Clerk

F I L E D

JAN 22 1981

T. E. Wiggins  
Circuit Clerk



IN THE CIRCUIT COURT OF LOWNDES COUNTY, MISSISSIPPI  
IN VACATION 1980

STATE OF MISSISSIPPI

VERSUS

NO. 6716

MACK ARTHUR KING

---

ORDER

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Came before the Court on motion of the Defendant in the above styled and numbered cause a Motion for Reasonable Time in which to prepare and file a Special Bill of Exceptions, and the Court being of the opinion that said Motion is well taken, does hereby grant the Defendant 5 days from the date of this Order to prepare and submit to the undersigned a Special Bill of Exceptions.

SO ORDERED AND ADJUDGED this the 30 day of January, A.D., 1981.

/s/ Harvey S. Buck

Judge Harvey S. Buck

F I L E D

JAN 30 1981

T. E. Wiggins,  
Circuit Clerk

IN THE CIRCUIT COURT OF LOWNDES COUNTY, MISSISSIPPI

IN VACATION 1980

STATE OF MISSISSIPPI

VERSUS

NO. 6716

MACK ARTHUR KING

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SPECIAL BILL OF EXCEPTIONS

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Comes now the Defendant and excepts specially to certain rulings of the Court in the proceedings of the above styled and numbered cause, to-wit:

I

During the course of the District Attorney's closing arguments of the adjudicatory phase, said District Attorney incorporated the so called "public policy" argument into his remarks, said remarks being objected to by the Defendant and sustained by the Trial Court, this occurring on two separate occasions, however, the Trial Court overruled the Defendant's Motions for Mistrial made ore tenus following each sustained objection and wherefore the Defendant excepts specially.

II

During the course of the Defendant's closing argument the Defendant, Mack Arthur King, stated "I am 21 years of age. Please don't send me to the gas chamber. I admit to the burglary, but didn't do no murder...", whereupon the Trial Court sustained the objection of the State on the basis of improper argument and wherefore the Defendant excepts specially.

WHEREFORE PREMISES CONSIDERED, the Defendant excepts specially to the above rulings of the Trial Court and urges

F I L E D

JAN 30 1981

T. E. Wiggins  
Circuit Clerk

these as error.

RESPECTFULLY SUBMITTED,

/s/ Joe O. Sams Jr.

Joe O. Sams, Jr.

Attorney for Defendant

/s/ Thomas L. Kesler

Thomas L. Kesler

Attorney for Defendant

ACCEPTANCE BY THE TRIAL COURT

Reviewed and accepted as to form and accuracy of  
events by the undersigned this the 30 day of Jan., A.D.,  
1981.

/s/ Harvey S. Buck

Judge Harvey S. Buck

F I L E D

JAN 30 1981

T. E. Wiggins

ircuit Clerk

STATE OF MISSISSIPPI  
LOWNDES COUNTY

IN THE CIRCUIT COURT  
NOVEMBER TERM 1980

STATE OF MISSISSIPPI  
VERSUS  
MACK ARTHUR KING

PLAINTIFF  
NO. 6716  
DEFENDANT

Cost to T. E. Wiggins, Clerk of the Circuit Court of Lowndes County, Mississippi, for making transcript in the above styled and numbered cause.

31,600 words at 25¢ per hundred as per Title 9-13-33

Mississippi Code 1972 Annotated	\$ 79.00
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Binding Fee	2 @ 4.00	8.00
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Postage for Transcript to Jackson, MS	15.00
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Filing	1.00
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Mrs. Kathleen Burnette Court Reporter	377.13
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Total	480.13
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STATE OF MISSISSIPPI

CIRCUIT COURT

COUNTY OF LOWNDES

NOVEMBER TERM 1980

I, T. E. Wiggins, Circuit Clerk of said County and State, do hereby certify that the foregoing is a true and correct transcript of the case no. 6716 - State of Mississippi versus Mack Arther King, on file in my office.

Given under my hand and seal of office, this the 6th day of April, 1981.

T. E. Wiggins

T. E. Wiggins, Circuit Clerk

Lowndes County, Mississippi

By: Dorothy M. Williams D.C.

STATE OF MISSISSIPPI

COUNTY OF LOWNDES

I, T. E. Wiggins, Circuit Clerk of said County and State, do hereby certify that Lowndes County has been billed for the Circuit Clerk's and Court Reporters fee in said cause and my check no. 426 in the amount of \$50.00 is hereby attached for deposit Supreme Court Clerks Cost.

Given under my hand and seal of office, this the 6th day of April, 1981.

T. E. Wiggins, Circuit Clerk

By: Dorothy M. Williams D.C.